

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

AFFIDAVIT OF ANNIE BREITLING IN SUPPORT OF PLAINTIFFS' MOTION TO
VACATE JUDGE TILLERY'S VOID ORDER

Come now Plaintiffs, Samuel G. and JoAnn S. Breitling, self represented, and incorporate herein their other pleadings in this case and their related cases and submit this sworn Affidavit in support of their motion to vacate Tillery's void order issued on August 4, 2014 granting Defendant LNV Corporation ("LNV") summary judgment in *LNV Corporation v. Breitlings et al*, Case# DC-14-04053 in the Dallas County District Court in the 134th Judicial District. Affiant Annie Breitling was present for the non-judicial foreclosure sale of Plaintiffs property on the 29th day after the said void order was issued to LNV; which violated the automatic stay Plaintiffs invoked pursuant to Texas Rule of Civil Procedure 736.11 by filing *Breitlings v. LNV Corporation et al*, Case# DC-14-09604 in the 101st Dallas County District Court.

Respectfully Submitted,

Jo Ann Breitling
JoAnn Breitling

Samuel G. Breitling

AFFIDAVIT OF ANNE MARIA BREITLING

I, Anne Maria Breitling, am over the age of 18 and I have lived in Dallas County all of my life. I have never been convicted of a crime. I am fully competent to make this affidavit in testimony of my personal knowledge and experience. I swear under the penalty of perjury and under the laws of Texas and the United States that my testimony herein is true and accurate.

I make this affidavit concerning the legal matter that my parents Samuel and JoAnn Breitling have been involved in with the Beal entities. My parents are senior citizens and I have a valid Power of Attorney to assist them with their affairs, and I have personal knowledge concerning the legal matter. I went with my father Samuel Breitling and I assisted him in the filing of a lis pendens last August in the Dallas County land records. The lis pendens was a notification that my parents home of 33 years was the subject of a lawsuit.

My mother JoAnn Breitling tried to contact someone on the morning of September 2, 2014 who could stop the illegal sale of their property, and I went to the auction to represent my parents and give the trustee a copy of the lawsuit and the lis pendens. I also arranged to meet WFAA investigative reporter Brett Shipp at the sale, and he was able to record it.

The auction was a very confusing and crowded event, and I had to make sure that I was in the right line. There was a man in front of me, and he told the trustee that he had filed bankruptcy, but he did not have the proper documents. The trustee was very polite and told him to go upstairs and that she would not sell his home. My parents had an automatic stay that was invoked immediately by the filing of an independent lawsuit under the Texas Rules of Civil Procedure 736.11. I thought that once I showed the copy of the lawsuit and the lis pendens, that the automatic stay would be honored.

However, as soon as I told the trustee (whose name I later learned was Shelley Ortolani) that I was there representing the property at 1704 Cornwall Lane, she immediately turned to the crowd and said very loudly "This property is for sale!" I turned around (while the camera man was filming) and I shouted to the crowd that the house was not for sale, that there was a lawsuit, and within seconds, Ms. Ortolani shouted that the house was sold to the lender, and in seconds, it was over... My parents' house was the very first one to be sold, and then Ms. Ortolani announced that she was taking a break, and she turned around and made a phone call.

Brett Shipp asked her why she just sold a property that had an automatic stay, and she replied that she had been instructed to sell the house anyways. My parents were sued for eviction in January, 2015, even though they had a lawsuit in federal court against LNV.

The eviction trial was to be held on January 26th and I attended it with my mother JoAnn Breitling and my brother Matthew Breitling. It was held at the JP Court near downtown Garland. I helped my mother carry several large boxes of files. She had asked the clerks if she could file anything "for the record" because she was accustomed to filing pleadings and motions in both state and federal court, and there were several ladies seated at the windows of the JP court. They all just said

"Show your papers to the judge." While that seemed strange to my mother, neither she nor I had ever been to a JP court before.

The opposing attorneys, Luke Madole and Sammy Hooda, arrived for the hearing.

They were accompanied by Locke Lord attorneys (from the federal court case) ,

Jason Sanders and Marc Cabrera. Jason and Marc sat on the very back row of the

court, and an unknown gentleman sat behind Luke Madole. Luke Madole handed

my mother a white binder before the hearing started, and my mother handed Mr.

Madole and Sammy Hooda several folders. I watched and I could see they became

very agitated with some of the things they were reading. They were whispering to

one another and my mother whispered to me that they were reading the arrest

record of Bret Maloney, who did a sworn verification of the entire eviction.

Luke Madole stood up and he took charge of the hearing, and began to address the jury. I was helping my mother read the short bios provided by the court about the potential jurors. Garland is a very mixed community. At least two jurors were

excused because they did not speak English. Potential juror number one was seated

right behind my mother, and ironically, he was an attorney. He was the very first

juror that Luke Madole struck. Luke Madole told the jurors that he would be using a

lot of "loud language" that day and saying "I object!" a lot and he asked if anyone

would be bothered by it. No juror responded. My mother had always thought that

she wanted a jury of her peers but as she and I went down the list of prospective

jurors, I know that my mother's heart sank, as did mine. We both realized we were

there that day with a very complex case and as we were deciding what jurors to

possibly keep, we wondered how a 23 year old unemployed gentleman could ever

comprehend how the laws had been violated in my parents case.

Finally the jury was selected, and Luke Madole leaned forward to the judge and in a very low tone voice whispered to the judge "Remember the motion in limine." My

mother and I both overheard him, and my mother asked the judge "What motion in

limine?" Judge Gerry Cooper said nothing. Luke Madole said nothing. No one

answered my mother's question. But, true to his word, Luke Madole DID object to

everything JoAnn Breitling said. When she asked the judge to strike the verification

of the eviction because Bret Maloney was not a credible witness to do such a

verification, my mother was quickly rushed into chambers so that the jury could not

hear anything else about Bret Maloney.

It was very frustrating and hurtful to me to watch my mother try to go through her

documents and show the evidence to the jurors, with Luke Madole shouting "I

object!" and Judge Gerry Cooper sustaining every objection. The unknown

gentleman kept passing notes to Luke Madole, and at one point, Sammy Hooda

began laughing out loud at my mother. She asked the judge why he was allowing

such conduct, and the judge just smiled and said nothing to Mr. Hooda.

My father (who was ill that week and about to have a surgery) came into the back of

the courtroom at the very end of the proceeding. He was very shocked to see Jason

Sanders and Marc Cabrera on their cellphones on the back row of the court, even

though there was a sign posted in huge letters that there was a \$200 fine for the use

of cell phones in the court.

The jury deliberated for a very short time and came back and the verdict favored LNV. My father saw one of the jurors in the hall, and he asked him "Why did you rule that way?" The juror said that all that they were told they could "consider" was that LNV bought the house at foreclosure, my parents were now tenants in sufferance, and they had refused to move. Nothing else was even "in" evidence. My mother took my father to the Medical District in Houston several days after the eviction trial. My daughter was picking up mail from the house and it was several days after the trial that a notice of a certified letter was left. My daughter went and picked it up, and it was a copy of LNV's "Motion in Limine, Motion to Exclude." It had been filed with the JP court three days before the Monday hearing.

They should have given my mother a copy of it at the hearing, but they did not. There was not an order attached. My mother called the JP court and she specifically asked if Judge Gerry Cooper had signed an order granting it, and she was told he did not, however, he went along with it.

I, Anne Maria Breitling do swear under God and under penalty of perjury and under the laws of Texas that my testimony herein is true and accurate.

Anne Maria Breitling
Anne Maria Breitling
972-658-3915

State of Texas County of Dallas
Before me, Kimberly Samples, on this day personally appeared
Anne Marie Breitling known to me (or proved to me on the oath of
TX DL or through (description of identity card or other document)
to be the person whose name is subscribed to the foregoing instrument and
acknowledged to me that he executed the same for the purposes and consideration
therein expressed.

Given under my hand and seal of office this 25 day of July (year) 2015

(Personalized Seal)

Kimberly Samples
Notary Public's Signature

